

Claims Report

United States Army Claims Service

Affirmative Claims Note

Unlawful Charges Levied on Insurance Settlements

Active duty service members often receive authorized medical care at private hospitals in emergency situations. In these situations, the government is required to reimburse the private hospital for care that has been provided to the service member. At times, the hospital will attempt to recover additional funds directly from the service member or from his insurer. This practice is prohibited by statute.

The government calculates the full and final payment and reimburses private hospitals through the supplemental health care program for active duty members.¹ Under this program, hospital care reimbursements may not exceed the average amount that is paid for comparable services in the geographic area where the hospital is located.² This is referred to as a diagnostic related group (DRG)-based billing system, and by design, it complies with the statutory provisions.

Private hospitals that accept patients under the supplemental health care program should have full knowledge of the assignment rules. These rules are delineated on the back of the Universal Business (UB)-92 billing forms that pertain to "CHAMPUS-determined reasonable charges . . . even if it is less than the billed amount."³ There are special procedures in place to insure that the UB-92 forms that are used by private hospitals are originals rather than a photocopy or a facsimile. These procedures ensure that the rules are on the reverse of the forms that hospital personnel use to input each bill.

The following situation illustrates the problem in this area. Recently, a private hospital provided care to an active duty soldier who was injured in a motor vehicle accident. The hospital submitted a bill to the government and received a DRG-based reimbursement that was less than the amount that was billed.

The hospital then violated the terms of their supplemental health care program participation agreement by asserting a claim for the remainder of the cost of care against the tortfeasor's liability insurance settlement with the injured soldier. The private hospital should not have asserted a claim for the full amount of the bill; rather, it should have accepted the amount of the DRG-based reimbursement as full and final payment. It is mentioned in 10 U.S.C.A. § 1086(h)(1) that a private hospital must not impose a legal obligation on any of its patients to pay for such services.⁴

The current edition of 32 C.F.R. part 199 discusses payments to health care providers who have provided supplemental health care to active duty service members.⁵ This section provides:

For a hospital covered by the CHAMPUS DRG-based payment system to maintain its status as an authorized provider for CHAMPUS pursuant to § 199.6, the hospital must also be a participating provider for purposes of the supplemental care program. As a participating provider, each hospital must accept the DRG-based payment system amount determined pursuant to § 199.14 as payment in full for the hospital services covered by the system. The failure of any hospital to comply with this obligation subjects the hospital to exclusion as a CHAMPUS-authorized provider.⁶

According to an attorney from the Office of Assistant General Counsel for the TRICARE Management Activity, violations of this rule are referred through her office to the program integrity section.⁷ Private hospitals that are found to have pursued or received more than the DRG-based payment for care provided will lose their TRICARE/CHAMPUS provider status.⁸ Additionally, they will be barred from providing care to

1. See 10 U.S.C.A. § 1086(h)(2) (West 1998).

2. *Id.*

3. Universal Business (UB) Form 92 (copies are available through the U.S. Army Claims Service).

4. *Id.* § 1086(h)(1).

5. 32 C.F.R. § 199.16(b) (1997).

6. *Id.*

7. Telephone Interview with Helen J. Hilton, Assistant General Counsel for the TRICARE Management Activity (Jan. 1998).

8. *Id.*

Medicare and Medicaid patients, a significant source of revenue for private hospitals.⁹

Claims personnel who know of private hospitals that violate the laws that pertain to DRG-based payment should refer these matters to: TRICARE Management Activity, ATTN: Assistant General Counsel, 16401 East Centretch Parkway, Aurora, Colorado 80011-9043

It is important to note that this is not a TRICARE/CHAMPUS issue. The TRICARE/CHAMPUS program does not actually pay for treatment to active duty service members. However, TRICARE/CHAMPUS rules do apply to payment under the supplemental health care program for active duty members.¹⁰

Private hospitals may appeal the billing rate through the local military medical treatment facility TRICARE/CHAMPUS health benefits advisor, who also deals with supplemental health care program patients.¹¹ Interestingly, DRG-based payments sometimes exceed the amount that was billed by the private hospital. It appears that the government has not received (and does not expect to receive) repayment from private hospitals for DRG-based payments that exceed the hospital's billed amount. This is part of the give-and-take aspect of the broad-based DRG-based payment system. Ms. Jedlinski.

Personnel Claims Note

Dispatch of DD Form 1840R After the Seventy-Five Day Limit

Some field claims offices do not routinely forward copies of Department of Defense Form 1840R¹² to the carrier if the form is received after the end of the seventy-five day notice period. It is important that these forms be dispatched to the carrier even though they are received after the seventy-five-day notice period. There are situations that may allow for recovery, but which may not be evident until later.¹³ For instance, the claimant may have been hospitalized or on temporary duty. If the hospitalization or temporary duty is for a significant portion of the seventy-five day notice period, or if it overlaps the end of

the notice period, the Army might be able to recover from the carrier despite the late submission. Also, if government personnel misinform the claimant about the reporting requirement, we may be obligated to pay the claim.¹⁴ When missing items are involved, business practice dictates that the carrier will initiate a search for the missing items. This form is usually the only notice of the missing items that the carrier will receive before demand for recovery is received. Mr. Lickliter.

Listing Titles of Missing Video Cassette Tapes

It is critical for field claims personnel to obtain as much information as possible concerning lost video cassette recorder (VCR) tapes before paying for them. The claimant should be asked to provide a list of the titles of each of the lost tapes. If this is not possible, the claimant should provide a detailed statement that indicates the type of tapes (prerecorded, blank, or self-recorded) and an explanation of why he is unable to recall the individual titles.

The importance of such statements was demonstrated in a recent case that was decided by the Defense Office of Hearings and Appeals (DOHA). In this case, the carrier failed to deliver two boxes of VCR tapes. The claimant indicated that he was missing 300 VCR tapes. The Army assessed ten dollars for each tape, for a total of \$3000, and then depreciated the amount by fifty percent to arrive at an offset figure of \$1500. The claimant had listed the titles of 48 VCR tapes, but failed to list the rest of the titles. The carrier offered four dollars each for all 300 tapes.

The appeal went to the DOHA. For the forty-eight tapes for which the claimant provided titles, the DOHA assigned a value of ten dollars each and depreciated this amount by fifty percent to arrive at a final figure of \$240. Because there was no list of titles for the remaining 252 tapes, the DOHA accepted the carrier's offer of four dollars each for blank tapes and depreciated that amount by fifty percent. The Army was forced to reimburse the carrier \$756.

As the above case illustrates, detailed statements from the claimant are critical when lost VCR tapes are involved. Absent

9. *Id.*

10. 32 C.F.R. § 199.6 (1997).

11. 32 C.F.R. § 199.14 (1997).

12. U.S. DEP'T OF DEFENSE, DD FORM 1840R, JOINT STATEMENT OF LOSS OR DAMAGE (Jan. 1988).

13. Joint Military Industry Memorandum of Agreement on Loss and Damage Rules (1 Jan. 1992) reproduced at figure 11-5, U.S. DEP'T OF ARMY, PAM. 27-162, CLAIMS PROCEDURES (1 Apr. 1998) [hereinafter DA PAM 27-162].

14. U.S. DEP'T OF ARMY, REG. 27-20, CLAIMS, para. 11-21a(3) (31 Dec 1997); DA PAM 27-162, *supra* note 13, para. 11-21g.

these statements, the Army cannot fully recover from the carrier. Ms. Schultz.

Empty Compact Disc Cases

Recently, a number of claimants have alleged that compact discs (CDs) were stolen from their shipments, only the empty CD cases were delivered. Claims that involve such losses pose a difficult dilemma for claims examiners. It is difficult for a claims examiner to understand why someone would steal CDs and leave the cases behind. In these cases, the claims examiner may reasonably conclude that the claimant shipped the CDs separately or hid the CDs and then later filed a fraudulent claim. On the other hand, there may be no concrete evidence of fraud, and the examiner may decide to give the claimant the benefit of the doubt.

A number of factors should be considered when a claim is being examined under these circumstances. First, the claims examiner should look at whether other items were claimed for reasonable quantities and value. Second, if the inventory does not state the number of CDs included in the shipment, determine if the number of CDs that is being claimed is reasonable. Next, he should determine if the number of CDs that are being claimed could have fit in the container that was listed on the inventory. Finally, based on his contact with the claimant, the examiner should determine whether the claimant is being completely honest.

The opinion of the claims examiner will be the most significant factor in deciding whether to pay or to deny one of these claims. If the examiner believes that the claimant is being truth-

ful, the claimant should be paid a reasonable amount for the claim. Mr. Lickliter.

Claims Management Note

FY98 Close-out and New Codes for FY99

The last day for paying claims in fiscal year (FY) 1998 is 16 September 1998. The close out report is due to the United States Army Claims Service Budget Office no later than the close of business on 18 September 1998. This report will be in the same format as the monthly financial report. The budget office will hold funds in reserve for offices that receive emergency claims after 16 September 1998. Funding will be approved telephonically on a claim-by-claim basis.

The claims accounting codes for FY 1999 have one change. The FY designator advances from 8 to 9. This is the third digit in the first group of digits in every claims payment and deposit accounting codes, making the first group of digits 2192020 instead of 2182020.

Every claims office that pays claims, whether by manual voucher or by electronic funds transfer, must ensure that FY 1999 accounting codes are used by finance.

Under no circumstances should a claims office use a FY 1998 accounting code for claims that are certified for payment after the beginning of FY 1999. Captain LaRosa.